

REMARKS

Claims 40, 42, 44, 46, 56-58, and 61 are presently pending. The Examiner has specifically requested that the status identifiers of all non-elected (i.e., Withdrawn) claims be converted to 'Canceled'. The Applicants comply while reserving the right to re-present similar and/or identical claims in a continuing application.

The Examiner has kindly withdrawn three § 112 rejections asserted in the previous Office Action. The Examiner, however, has reasserted the obviousness rejections:

- I. Rejections Under 35 USC §103(a)
 - A. Claims 40 and 61 are allegedly unpatentable over Butler "Production and Secretion Of Recombinant Human Fibrinogen By the Transgenic Murine Mammary Gland" *Master Of Science Thesis*, Blacksburg, VA, in view of Jorgensen et al., *J Biol Chem* 262:6729-6734 (1987), and further in view of van Cott and Velandar *Expert Opinion on Investigational Drugs* 7:1683-1690 (1998).
 - B. Claims 40, 42, 44, 46, 56 and 58 are allegedly unpatentable over Butler "Production and Secretion Of Recombinant Human Fibrinogen By the Transgenic Murine Mammary Gland" *Master Of Science Thesis*, Blacksburg, VA, in view of Jorgensen et al., *J Biol Chem* 262:6729-6734 (1987), and further in view of Le Bonniec et al., *J Biochem* 266:137796-13803 (1991).
 - C. Claims 40 and 57 are allegedly unpatentable over Butler "Production and Secretion Of Recombinant Human Fibrinogen By the Transgenic Murine Mammary Gland" *Master Of Science Thesis*, Blacksburg, VA, in view of Jorgensen et al., *J Biol Chem* 262:6729-6734 (1987), and further in view of Seegers et al., *Blood* 5:421-433 (1950).

I. Butler Is Not Prior Art

The Examiner has not established that the Butler Thesis was available to the public before the Applicants' filing date (August 18, 2000). The sole fact that the Butler Thesis was defended on May 19, 1997 is not evidence that the thesis was available to the public as a publication on that date, or any specific date. It is well settled patent law that a thesis must be indexed and shelved before it is considered a proper publication:

A doctoral thesis indexed and shelved in a library is sufficiently accessible to the public to constitute prior art as a "printed publication".

In re Hall, 781 f.2d 897 (Fed. Cir. 1986). Although not required, the Applicants provide affirmative evidence to establish that the public availability date for the Butler Masters thesis was after August 18, 2000 (the pending application's priority date). The author of the Butler Master's thesis (Stephen Butler, M.S.) has personal knowledge that his thesis was sequestered following graduation. The accompanying 'Butler Declaration' is submitted as evidence of this sequestration.

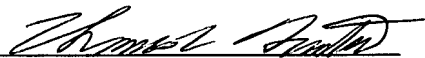
Further, the undersigned Attorney has also had personal conversations with the Virginia Tech Graduate Admissions Office and verified this belief. The Applicants have requested, and will receive, a Release Form proving that the Butler Thesis was not released to the public until several years after August 18, 2000. When the Applicants receive this Release Form, a Supplemental Response to this Final Office Action will be submitted.

If the Examiner considers this response sufficient to withdraw all the above rejections, the Applicants would appreciate a telephone conference to agree upon an Examiner's Amendment to accompany a Notice of Allowance such that the Supplemental Response can be avoided.

CONCLUSION

The Applicants believe that the arguments and claim amendments set forth above traverse the Examiner's rejections and, therefore, request that all grounds for rejection be withdrawn for the reasons set above. Should the Examiner believe that a telephone interview would aid in the prosecution of this application, the Applicants encourage the Examiner to call the undersigned collect at 617.984.0616.

Dated: October 31, 2007

By: 
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